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April 30, 2018

Via ECF

Ruby J. Krajick, Clerk of the Court
United States District Court for the
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Cruz v. Mercury Construction Concepts, Inc., Docket No.: 1:17-cv-00153

Dear Ms. Krajick:

We represent the Plaintiff, Erasmo Cruz (“Plaintiff”), in the above-referenced wage and hour matter against Defendants Mercury Construction Concepts, Inc., Handy Andy Squad, Inc., and Andrew Russac (“Defendants”), (together, with Plaintiff, as “the Parties”), that the Honorable Andrew J. Peck - - to whose jurisdiction the Parties consented for all purposes, *See* ECF #31 - - approved and closed pursuant to *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199, 206-07 (2d Cir. 2015), and Federal Rule of Civil Procedure 41(a)(2), on November 2, 2017 (ECF # 56). In doing so, the court retained jurisdiction for the purpose of enforcing the settlement agreement. *See* ECF # 55-1 at 3-4, ¶ 3 (“If Defendants fail to timely cure their breach, the entire unpaid balance of the Settlement Amount and an additional amount equal to the unpaid balance will then become immediately due and owing, and Plaintiff may apply to the Court, which will retain jurisdiction over the Action to enforce the terms of this Agreement by entering judgment for that amount, along with all of Plaintiff’s reasonable attorney’s fees and costs associated with seeking judgment for Defendants’ breach.”). Defendants have defaulted with respect to their payment obligations. As a result, we write to respectfully request that a new judge be assigned to this case, as a result of Judge Peck’s retirement, in anticipation of Plaintiffs’ motion for the entry of judgment against Defendants.

We thank the court for its consideration of this matter.

Respectfully submitted,



Joan B. Lopez, Esq.
For the Firm

To: Counsel for all parties (*via ECF*)

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